



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
San Francisco, CA 94105-3901

Steven Winde
President
Mauna Towers of Hawaii, LLC
7889 Lichen Dr. #360
Citrus Heights, CA 95621

Re: **Underground Storage Tank (UST) Field Citation No. UST-09-HDOH054-21-09-23**
Hualalai Radio Site, End of Huehue Street, Kailua-Kona, HI
EPA ID: HDOH054
HDOH ID: 9-600568

Dear President Winde:

I. Violations Identified

This correspondence refers to the underground storage tank (UST) system located at the above referenced address (the Facility) that was inspected on September 23, 2021 by **S. Bobby Ojha** on behalf of the U.S. Environmental Protection Agency (US EPA). The purpose of the inspection was to determine the Facility's compliance with UST requirements under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 USC §§ 6991 *et seq.*) and the approved Hawaii UST Program, including the approved Hawaii UST statutory requirements at Hawaii Revised Statutes (HRS), Chapter 342L, Chapter 342D, and Chapter 128D, and the approved Hawaii implementing regulations at Hawaii Administrative Rules (HAR), Chapter 11-281, (*see* Title 40 of the Code of Federal Regulations (40 CFR) §282.61).¹

Within this correspondence is a "Notice of Inspection" (Enclosure 1) summarizing the deficiencies found at this Facility and the actions required for returning to compliance. At the conclusion of the inspection, S. Bobby Ojha required specific actions to be taken and documentation be provided to the US EPA. Based on the inspection results, the following items of UST non-compliance were observed at your Facility. Therefore, the US EPA has determined that a Notice of Violation and Expedited Enforcement Compliance Order/Settlement Agreement (Field Citation) is warranted.

¹ The federally approved version of Hawaii's regulations was promulgated on January 12, 2000, effective January 8, 2000. Hawaii repealed the 2000 regulations and adopted a new set of UST regulations, effective July 15, 2018, and US EPA has made a tentative decision to approve the 2018 Hawaii regulations. 85 FR 49611, Aug. 14, 2020. However, until final approval of the revised Hawaii regulations is effective, US EPA is enforcing the 2000 version of the Hawaii regulations.

This Field Citation identifies the following alleged violations and proposed penalties:

HAR § 11-281-51(a)²

[See, also, 40 CFR §280.40(a)³] Failure to provide adequate release detection, \$670

HAR § 11-281-45(c)(4)

[See, also, 40 CFR §280.45⁴] Failure to maintain documentation of compliance for release detection requirements, \$670.

II. Opportunity for Expedited Settlement

The US EPA is offering you an opportunity to settle this matter quickly and at a reduced penalty if you choose to follow the expedited settlement procedures provided in the enclosed UST Field Citation within thirty (30) days of your receipt of this letter.

If you choose to participate in this expedited settlement process, and the US EPA determines you have satisfied the requirements for expedited settlement under the Field Citation, the US EPA will settle the outstanding violations for **\$1340**.

III. Procedures for Expedited Settlement Under an UST Field Citation

To take advantage of the expedited settlement process, within 30 days of your receipt of this letter, you must follow the instructions in the enclosed Field Citation. They include:

1. Correcting the violations identified in Part I of the Field Citation;
2. Paying the total penalty amount listed in the Field Citation;
3. Signing the Settlement Agreement portion of the Field Citation (Part II); and
4. Returning the Field Citation Form along with documentation of compliance and payment information to the US EPA address listed on the Field Citation.

In signing the Settlement Agreement portion of the Field Citation, you are certifying under penalty of law that you have: (a) corrected the violation(s); (b) have submitted true and accurate documentation of compliance; and (c) have agreed to pay the civil penalty of **\$1340** set out in the Agreement. Failure to meet these conditions prior to signing the Settlement Agreement means you may be liable for the original violations, and for making a false representation to the U.S. Government under 18 U.S.C. § 1001. Also, by signing the Agreement, you agree to waive your opportunity for a public hearing pursuant to RCRA § 9006.

² US EPA is enforcing the version of HAR § 11-281-51(a) that was promulgated on January 12, 2000, effective January 8, 2000, (see attachment).

³ US EPA's UST regulations were originally promulgated on September 23, 1988, effective December 22, 1988, 53 FR 37082. US EPA undertook a wholesale revision of the federal UST regulations in 2015, 80 FR 41566, July 15, 2015.

⁴ *Id.*

If you have any questions or wish to discuss the general circumstances of your case, please contact S. Bobby Ojha at (415) 972-3374.

Sincerely,

Kaoru Morimoto, Manager
Hazardous Waste And Chemicals Section
Enforcement and Compliance Assurance Division

cc: Roxanne Kwan, HDOH, Solid and Hazardous Waste Branch

Enclosures

- Notice of Inspection Form
- UST Field Citation Form
- EPA Field Citation Payment Penalty Options
- Relevant Excerpts: Hawaii's 2000 UST Regulations